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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,267	01/14/2004	Anil Kumar	1905A1	3600
7590	03/30/2005		EXAMINER STULTZ, JESSICA T	
Frank P. Mallak PPG Industries, Inc. One PPG Place Pittsburgh, PA 15272			ART UNIT 2873	PAPER NUMBER

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/757,267	KUMAR ET AL.
	Examiner Jessica T. Stultz	Art Unit 2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-194 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) 1-194 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-75, 117-177, and 193-194, claims 117-177 and 193-194 are drawn to a method of making an optical element, classified in class 351, subclass 177. Claims 1-33 are being grouped together with the method claims, since these claims could be searched together with claims 117-141, 157-177, and 193-194, and claims 34-75 are being grouped together with the method claims, since these claims could be searched together with claims 142-156, without any undue burden on the examiner.
- II. Claims 76-113 and 178-192, claims 76-113 are drawn to an optical element, classified in class 359, subclass 642. Claims 178-186 are being grouped together with the optical element claims since these claims could be searched together with claims 76-110, and claims 187-192 are being grouped together with the optical element claims since these claims could be searched together with claims 111-113, without any undue burden on the examiner.
- III. Claims 114-116, drawn to an optical device including an optical element, classified in class 359, subclass 643.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be

made by another and materially different process (MPEP § 806.05(f)). In the instant case the product can be made by another and materially different process. Specifically the product can be made without the step of forming at least a partial coating adapted to polarized at least transmitted radiation on at least a portion of at least one surface of the element, as per claims 76-110 and 178-192; additionally the product can be made without forming an ophthalmic element as per claim 113, and the product can be made without using an anisotropic material as per claims 111-112.

Inventions III and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the optical device does not require the use of a liquid crystal material, as per claims 111-113 and 187-192; additionally the optical device does not require that optical element is an ophthalmic element, as per claims 76-110; additionally the optical device does not require that the alignment medium is at least partially ordered, as per claims 178-186. The subcombination has separate utility such as being used as an optical element wherein the alignment medium is at least partially ordered, as per claims 178-186; the subcombination can be used as an element without an anisotropic material, as per claims 111-113 and 187-192.

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be

made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make another and materially different product, specifically the method can be used to make an optical element that does not include an anisotropic material, as per claims 142-156, additionally, the method can be used to make an optical element that includes a partial coating adapted to polarize at least transmitted radiation on at least a portion of the lens surface, as per claims 1-75, 117-141, 157-177, and 193-194.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for any one group is not required for any other group, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention: Group Ia, claims 117-141 and 157-177 and 193-194 (and corresponding product claims 1-33), drawn to a species of making optical elements including forming at least a partial coating adapted to polarize at least transmitted radiation on at least a portion of at least one exterior surface of an ophthalmic element; Group Ib, claims 142-156 (and corresponding product claims 34-75), drawn to a species of making optical elements including imparting at least one orientation facility comprising a partial coating comprising an alignment medium; Group IIa, claims 76-110 (and corresponding method claims 178-186), drawn to an optical element comprising at least one partial coating including an alignment medium, an anisotropic material, and at least one dichroic material; Group IIb, claims 111-112 (and corresponding

method claims 187-192), drawn to an optical element comprising an ophthalmic element including at least one orientation facility, at least a partial coating comprising a photo-orientable polymer network, and a partial coating including a liquid crystal material and a dichroic material; Group IIc, claim 113, drawn to an optical element comprising at least a partial coating to polarized transmitted radiation, at least one partially ordered liquid crystal material, and at least one partially aligned dichroic material.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none of the claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T. Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica Stultz  
Patent Examiner  
AU 2873  
March 21, 2005



**JORDAN SCHWARTZ**  
**PRIMARY EXAMINER**